

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 MAY 18 2004
 HARFORD COUNTY

Case No. 5428
 Date Filed 5-17-04
 Hearing Date _____
 Receipt _____
 Fee \$450⁰⁰

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

CASE 5428 MAP 64 TYPE Variance

- ____ Administrative Decision/Interpretation
 ____ Special Exception
X Use Variance
 ____ Change/Extension of Non-Conforming Use
 ____ Minor Area Variance
X Area Variance
X Variance from Requirements of the Code
 ____ Zoning Map/Drafting Correction

ELECTION DISTRICT 1 LOCATION 116 Philadelphia Rd., Joppa, Md. 21085

BY Thomas C. and Marlene E. Rye

Appealed because a variance from the requirements of the Code or in the alternative, a Use variance pursuant to Section 267-11 and Table I, Principal Permitted Uses, Warehousing, Wholesaling and Processing of the Harford County Code to permit the existing structure to be used as a warehouse/storage facility in a R1 District, requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Thomas C. Rye Phone Number call attorney

Address 1400 Eagle Ridge Run Bel Air MD 21014-1871
 Street Number Street City State Zip Code

Co-Applicant Marlene E. Rye Phone Number call attorney

Address 1400 Eagle Ridge Run Bel Air MD 21014-1871
 Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
 Street Number Street City State Zip Code

Attorney/Representative John J. Gessner Phone Number 410-893-7500

Address 11 S. Main Street Bel Air MD 21014
 Street Number Street City State Zip Code

Land Description

Address and Location of Property Lot 45 100 x 200 116 Philadelphia Road
Joppa

Subdivision _____ Lot Number 45

Acreage/Lot Size 100' x 200' Election District 1st Zoning R1

Tax Map No. 64 Grid No. 3E Parcel 215 Water/Sewer: Private X Public _____

List ALL structures on property and current use: non-conforming structure; warehouse

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? N/A

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes X No _____

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

SEE ATTACHED

Justification

SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

ATTACHMENT TO APPLICATION OF THOMAS C. RYE AND MARLENE E. RYE

REQUEST:

A variance from the requirements of the Code or, in the alternative, a use variance, pursuant to Section 267-11 of the Harford County Zoning Code ("Code") to permit the existing structure located on the subject property to be used as a warehouse/storage facility on the subject property zoned R1, Urban Residential, as shown on the attached site plan.

JUSTIFICATION:

The existing structure located on the subject property is a valid non-conforming structure, having been constructed prior to 1957. It was previously used as the site of a communications facility. In Board of Appeals Case No. 2135, approval was granted to use the facility for non-residential purposes. That approval expired. The Department of Planning and Zoning initially indicated that a permit could be issued to enable the subject property to be occupied for a business use. The Applicants then made arrangements to lease the subject property for that purpose. The Department of Planning and Zoning then indicated that a permit could not be issued. The subject property is not served with public sewer. Public sewer service will not be made available to the subject property in the foreseeable future. The Health Department has approved the use of the subject property for commercial/non-residential purposes with a holding tank. The Health Department will not approve the use of the subject property for residential purposes with a holding tank. Given the requirements of the Health Department and the subject property's size, location and improvements, no other use of the subject property permitted in the R1 zone is feasible. As a result, the subject property is unique. Granting the requested variance will not cause adverse impact to adjoining properties.

100'

48'

BRICK
BUILDING

26'

34'

CONCRETE
DRIVEWAY

13'

138'

12'

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

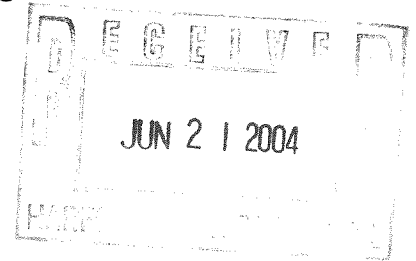


J. STEVEN KAH-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

June 18, 2004



STAFF REPORT

BOARD OF APPEALS CASE NO. 5428

APPLICANT/OWNER: Thomas C. Rye
1400 Eagle Ridge Run, Bel Air, Maryland 21014-1871

Co-APPLICANT: Marlene E. Rye
1400 Eagle Ridge Run, Bel Air, Maryland 21014-1871

REPRESENTATIVE: John J. Gessner
11 S. Main Street, Bel Air, Maryland 21014

LOCATION: 116 Philadelphia Road
Tax Map: 64 / Grid: 3E / Parcel: 215 / Lot: 45
Election District: First (1)

ACREAGE: 20,000 square feet

ZONING: R1/Urban Residential District

DATE FILED: May 17, 2004

HEARING DATE: July 7, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

See Attachment 1.

Preserving our values, protecting our future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410-638-3000 • 410-879-2000 • TTY 410-638-3086 • www.co.ha.md.us

This document is available in alternative format upon request.

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Board of Appeals Case Number 5428

Thomas & Marlene Rye

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CODE REQUIREMENTS:

The Applicants are requesting a variance from the requirements of the Code or in the alternative, a Use Variance pursuant to Section 267-11 and 267-32 Table I, Principal Permitted Uses, Warehousing, Wholesaling, and Processing of the Harford County Code to permit the existing structure to be used as a warehouse/storage facility in an R1/Urban Residential District.

Enclosed with the report is a copy of part of Section 267-32 Table I of the Harford County Code (Attachment 2).

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is situated on the north side of Philadelphia Road (MD Route 7), approximately 1,000-feet east of the Baltimore/Harford County line. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 3 and 4).

The property is located within the Development Envelope. The land use designations in this area include Low, Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects parks and stream buffer systems. The subject property is located in the Low Intensity designation, which is defined by the 1996 Master Plan as:

Low Intensity – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are examples of some of the nonresidential uses associated with this designation.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses conform to the overall intent of the Master Plan. To the west of Joppa Road, the area contains mainly residential development. To the south along Routes 7 and 40 are areas of commercial and light industrial uses. Enclosed with the report is a copy of the aerial photograph (Attachment 7).

The subject property is rectangular in shape and is approximately 0.383 of an acre in size. The land slopes gently up from Route 7 to the rear of the property (Attachment 8). Improvements consist of a one-story brick building that was built and owned by the American Telephone and Telegraph Company. Other improvements include a concrete and stone driveway and parking area. The building has only one door located in the front, air vents on the sides, but no windows. The building was constructed prior to 1957 and contained equipment used for telephone services.

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Thomas & Marlene Rye

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The property to the rear is used residentially and contains a mix of open area and woodland. There is approximately 140±-feet separating the adjacent dwelling from the subject building. The lot adjoining to the west contains a residence approximately 60-feet from the subject building; however, it appears to be vacant. Continuing west there are several existing non-conforming commercial uses and R1 zoned property. The lot adjoining to the east is vacant except for an old shed in a dilapidated condition located near the rear property line. The property across Route 7 to the south is densely wooded. Enclosed with the report are site photographs along with an enlargement of the aerial photograph for the subject property and immediate surrounding area (Attachments 9 and 10).

The site was subject to a previous Board of Appeals approval in Case Number 2135. The Applicant, Thomas Rye, requested approval to use the property for production of electrical wiring circuits and wiring markers. The Hearing Examiner approved the request for that specific use, subject to no more than five employees other than the Applicant and his wife, and that off-street parking for employees and visitors be provided. Enclosed is a copy of the decision in Case Number 2135 (Attachment 11).

Zoning:

The overall zoning patterns conform to the intent of the 1996 Master Plan. The predominant residential zoning between I-95 and Route 40 is R1/Urban Residential District. Commercial zoning includes B1/Neighborhood, B2/Community, B3/General Business and CI/Commercial Industrial Districts. The subject property is zoned R1/Urban Residential District as shown on the enclosed copy of the Zoning Map (Attachment 12).

Zoning Enforcement:

The subject request is the result of a zoning enforcement investigation. The Department received a complaint that a business was in operation and a port-a-pot was brought onto the property. The Department's inspection was conducted on January 2, 2004. It was reported by two employees that Mr. Jenkins was using the building as a carpentry shop. A port-a-pot was placed against the building. There is also a dumpster to the rear and left side of the building. No permits were located for the use of the property for the existing business. The inspector determined that the building was non-conforming and existed prior to zoning. A letter dated January 21, 2004 was sent to the Applicants outlining the findings of the inspection. Enclosed with the report are copies from the zoning enforcement file for informational purposes only (Attachment 13).

Health Department:

In a letter dated May 27, 2004 (Attachment 14), the Health Department stated that if the existing structure's use as warehouse/storage is approved, the following comments would apply:

1. Sanitary facilities must be provided. The site is unacceptable for conventional sanitary facilities. The spot a pot is not an acceptable means of sewage disposal and it must be removed from the premises.

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Thomas & Marlene Rye

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2. The Health Department will endorse the installation of a holding tank for the proposed use. All holding tank requirements shall apply.
3. A Sanitary Construction Permit must be secured prior to the installation of the holding tank.

SUMMARY:

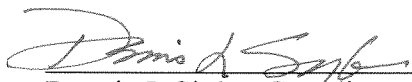
The Applicants are requesting a variance from the requirements of the Code or in the alternative, a Use Variance pursuant to Section 267-11 and 267-32 Table I, Principal Permitted Uses, Warehousing, Wholesaling, and Processing of the Harford County Code to permit the existing structure to be used as a warehouse/storage facility in an R1/Urban Residential District.


The original use of the building was for a utility company. After the utility company sold the building, it was then converted to a commercial use. The property has not been used for a residence since the adoption of zoning regulations in the County. The Health Department has stated that they will not approve a septic system for a residential use of the property. Public sewer service is too far away to be extended to the subject site in the foreseeable future. The Health Department will allow a holding tank for a commercial or warehouse use only. Therefore without Board approval the Applicants are unable to secure a reasonable use of the property. The Department believes for the reasons as outlined in this report that the difficulties and hardship are peculiar to the subject property. Board approval was granted in the past to use the property for manufacturing. The Applicants are presently seeking approval for a warehouse and storage facility. This Department is of the opinion that the circumstances pursuant to this property are unique, and sufficient to approve the requested variance.

RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variance be approved subject to the following conditions:

1. The Applicants obtain all necessary permits and inspections for the use of the building.
2. The approval shall be limited to the proposed use of the property for a warehousing/storage facility.
3. There shall be no outside storage of material.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka